

MINUTES
EVANS CITY COUNCIL
Regular Meeting
October 2, 2012 - 7:30 P.M.

CALL TO ORDER

Mayor Achziger called the meeting to order at 7:30 p.m.

PLEDGE

ROLL CALL:

Present: Mayor Achziger Mayor Pro-Tem John Morris, Council members Laura Brown, Fred Burmont, April Neibauer, Brian Rudy, and Jay Schaffer

AUDIENCE PARTICIPATION:

There was no audience participation.

APPROVAL OF AGENDA:

Council member Schaffer made motion, seconded by Councilmember Rudy to approve the agenda as presented. Motion passed with all voting in favor thereof.

CONSENT AGENDA:

- A. Approval of Minutes of the Regular Meeting of September 18, 2012
- B. EEDAC Appointments
- C. Resolution No. 27-2012-Adoption of the 2013 Fee Schedule

Council members Rudy and Burmont abstained from voting on the consent agenda due to their absences at the September 18th meeting.

Councilmember Schaffer made motion, seconded by Councilmember Brown to approve the Consent Agenda as presented. Motion passed with all voting in favor thereof.

NEW BUSINESS

- A. Public Hearing-New Hotel and Restaurant Liquor License-Paradise Billiards and Restaurant-818 31st Unit L

Mayor Achziger opened the public hearing and asked to hear from staff.

City Attorney Russ Anson reported the following:

Angie A. Medina, representing Paradise Billiards and Restaurant, submitted an application for a Hotel and Restaurant Liquor License located at 818 31st Street, Unit L. The nature of the proposed establishment is a restaurant and billiards hall.

The preliminary findings and report submitted for this hotel and restaurant liquor license application is as follows:

The application was filed on August 20, 2012.

The City Attorney and Staff find that the applicant has submitted all the necessary information for a complete application.

The evidence submitted by the applicant entitles them to possession of the premises where they propose to exercise the license applied for.

No licensing authority has denied an application for a liquor license at this location within two years preceding the date of filing of this application.

That selling liquor in the manner proposed in the application is not in violation of the zoning, fire and other applicable laws of the City of Evans or the State of Colorado.

That the investigation reports from the Fire Department and Building Inspection Department indicates the premises are in compliance with the Building, Zoning and Fire Codes.

This is a legal nonconforming site that has signed an agreement and made an escrow deposit to ensure compliance with the code.

That the building where the applicant proposes to exercise the privilege of selling liquor is not within the 500 foot limitation from any public or parochial school or principal campus of any college, university or seminary.

The neighborhood for purposes of determining the reasonable requirements of the neighborhood was established as a one (1) mile radius from the location. There are 4 hotel licenses in the 1 mile radius due to part of the area being in Greeley.

The applicant submitted petitions addressing the needs and desires of the neighborhood. The petitions submitted reflect 108 signatures in favor of the proposed liquor license and there are no signatures showing opposition to the proposed liquor license. The petitions are attached.

The memo from the police department indicates no information was found relating to the applicants of a criminal history nature or which would reflect on the moral character of the applicants.

Notice of Public Hearing was posted on the property on September 19, 2012 by the applicant's representative and publication was made in the Greeley Tribune on September 22, 2012.

Before granting any license, the local licensing authority shall consider the reasonable requirements of the neighborhood, the desires of the adult inhabitants, the moral character of the applicants and any other pertinent matters affecting the qualifications of the applicants.

Mayor Achziger asked if there were any questions of staff.

Mayor Achziger asked if the applicant wished to speak to council on this manner.

Angie Medina, owner of 818 31st Street Unit L explained that their plan is to have breakfast and lunches. They will have pool leagues but the main focus is the restaurant.

Mayor Achziger asked if they have ever had run a business such as this before.

Ms. Medina replied that they currently run the Oasis in Greeley. They will continue to run this business as well. 14 years ago they operated the Winterset for 8 years.

Mayor Achziger asked how many employees they plan on having.

Ms. Medina replied they have 6 but need 8-10 due to hours starting at 7 am.

Mayor Achziger asked if employees have been trained on serving alcohol.

Ms. Medina replied that all employees have been through the training.

Mayor Achziger asked if they will have extra security for pool league and darts.

Ms. Medina replied that they will have more security on the weekends and week nights when they have leagues. And she further stated that security is always on call.

Mayor Pro Tem Morris asked if the business will open at 7 am every day including Sundays.

Ms. Medina replied yes.

Mayor Achziger asked what kind of lunches will be served.

Ms. Medina replied that a mix of Mexican dishes and American dishes will be served.

Mayor Achziger asked if any one wished to speak in favor of issue. There were none.

Mayor Achziger asked if any one wished to speak in opposition. There were none

Mayor Achziger asked if there was any more clarification needed.

Mayor Pro Tem Morris asked the Attorney Anson to confirm the address was 818 31st Street Unit L not Unit 1. City Attorney Anson confirmed that it is Unit L.

Mayor Achziger closed the public hearing.

Mayor Achziger asked if there was any council discussion on the matter.

Mayor Pro Tem Morris stated that this application was very straight forward. They have had a business in the past and the location is good. He is in support of this. Council member Neibauer stated it is apparent that the applicant has established themselves and is satisfied with the application. She will be voting in support of this. Mayor Achziger conquers. The applicant has taken all the correct steps, especially the training of staff on serving alcohol. The applicant is well aware of what is involved in having a business such as this from past

experience. By granting this application it does not overpopulated the area with similar businesses. He is very much in support of this.

Council member Rudy made motion, seconded by Mayor Pro Tem Morris, to approve the Hotel and Restaurant Liquor License for Paradise Billiards and Restaurant. Motion passed with all voting in favor thereof.

B. Public Hearing-New Hotel and Restaurant Liquor License – El Borrego De Oro, LLC – 2812 11th Avenue

Mayor Achziger opened the public hearing and asked to hear from staff.

City Attorney Russ Anson reported the following:

Enrique and Myrna Carrillo, representing El Borrego De Oro, submitted an application for a Hotel and Restaurant Liquor License located at 2812 11th Avenue. The nature of the proposed establishment is a restaurant with liquor service.

The preliminary findings and report submitted for this hotel and restaurant liquor license application is as follows:

The application was filed on August 29, 2012.

The City Attorney and Staff find that the applicant has submitted all the necessary information for a complete application.

The evidence submitted by the applicant entitles them to possession of the premises where they propose to exercise the license applied for.

No licensing authority has denied an application for a liquor license at this location within two years preceding the date of filing of this application.

That selling liquor in the manner proposed in the application is not in violation of the zoning, fire and other applicable laws of the City of Evans or the State of Colorado.

That the investigation reports from the Fire Department and Building Inspection Department indicates the premises are in compliance with the Building, Zoning and Fire Codes.

That the building where the applicant proposes to exercise the privilege of selling liquor is not within the 500 foot limitation from any public or parochial school or principal campus of any college, university or seminary.

The neighborhood for purposes of determining the reasonable requirements of the neighborhood was established as a one (1) mile radius from the location.

The applicant submitted petitions addressing the needs and desires of the neighborhood. The petitions submitted reflect 150 signatures in favor of the proposed liquor license and there are no signatures showing opposition to the proposed liquor license. The petitions are attached.

The memo from the police department indicates no information was found relating to the applicants of a criminal history nature or which would reflect on the moral character of the applicants.

Notice of Public Hearing was posted on the property on September 18, 2012 by the applicant's representative and publication was made in the Greeley Tribune on September 22, 2012.

Before granting any license, the local licensing authority shall consider the reasonable requirements of the neighborhood, the desires of the adult inhabitants, the moral character of the applicants and any other pertinent matters affecting the qualifications of the applicants.

Mayor Achziger asked if there were any questions of staff.

Council Member Burmont asked what the distance is it exactly from the restaurant to the new school. Attorney Anson responded that the specific distance is not known but by a visual drive by he felt it was well over the 500 feet. He also stated he presumed that staff made the appropriate measurements.

There was further discussion that the map was not clear of the distance. It appeared that it was not actually 500 feet. Sheryl Trent, the Economic Development Director, offered to go through the Arc Reader/GIS system to get a specific measurement.

Council member Neibauer asked if Council could grant the liquor license stipulating the time of alcohol can be served or can it be served through hours of operation.

Attorney Anson explained that this can be a condition of granting the license.

Mayor Achziger explained to audience on the 500' rule and what Ms. Trent was looking at.

Mayor Achziger asked applicant to come up and speak.

Enrique and Myrna Carrillo, 2812 11th Avenue, came up and explained that they want to be able to sell drinks with meals. There is no bar set up in the restaurant. They feel that being able to serve basic beers and margaritas would help their business.

Mayor Achziger asked what the hours of operation are. The applicant replied that they are open 11 am to 9 pm Tuesday thru Sunday and are closed on Mondays.

Mayor Achziger asked if they have done this kind of business before. The applicant replied yes.

Mayor Achziger asked how many employees they have. The applicant replied 5. Mayor Achziger then asked if any of the employees have gone through any of the alcohol serving training. The applicant replied that one has and they are planning on sending the rest. They have been supplied with a class list.

Mayor Achziger asked how long they have been opened. The applicant replied 3 and half months.

Mayor Pro Tem Morris stated he was happy with the layout without the bar and just serving alcohol with meals.

Council member Neibauer asked when the business was the busiest. The applicant replied that lunch and weekends all day are the busiest.

Attorney Anson stated that we are making determination on how we measure the 500 foot requirement from the facility from the school. Measuring in a straight line without considering road ways would be under the 500 feet. But if it is measured down the road to the entryway of the school it is well over the 500 feet.

Mayor Achziger called a 5 minute recess.

Mayor Achziger reconvened the meeting.

Mayor Achziger asked for interpretation of the City Attorney at this time.

Attorney Anson replied that the measurement is at the property line of the school to the facility where the license is to be granted. In this case it is only 250 feet. It would be well beyond if measured by the point of entry which is the street by the school.

Council member Burmont asked if the 500 foot rule a state requirement or city requirement. Attorney Anson replied that it is a state requirement and it is in the code. He is unaware of any way to get around it because it is specifically written in the code itself

Mayor Pro Tem Morris asked Attorney Russ Anson to site the code for the record. Attorney Anson replied that the statute is CRS 12-47-313 under sub section 1 d. The only provision is that if it is for a renewal or reissuance of an existing license that was granted prior to a school existing. In this case the Study Hall was there before and closed; thus making this a new license for the new business.

Council member Burmont asked if there is any avenue of appeal.

Attorney Anson recommended continuing this to the next council date to give a chance for case law review.

Council member Neibauer can we do stipulation about serving during school hours. Attorney

Anson replied that the continuation would allow us to look into this as well.

Council member Burmont asked Attorney Anson if we continue this hearing it will give him a chance to research case law, to help find a way to legally grant the liquor license or deny it. Mayor Achziger explained to the applicant the position Council by being a quasi-judicial group and we have to follow state law. By continuing the hearing we can look into all the case law to try to see if there is any way to grant the license otherwise we have to deny the license.

Council member Burmont moved, seconded by Mayor Pro Tem Morris to continue the public hearing to the October 23rd Council meeting. Motion carried with all voting in favor of.

C. Public Hearing—2013 Budget

- a. Resolution No. 28-2012—Adoption of the 2013 Budget
- b. Ordinance No. 542-12—2013 Budget Appropriations (1st Rd)

Jessica Gonifas, Deputy City Manager/Finance Director, reported the following:

The City Council, by resolution, shall adopt an annual budget and shall make annual appropriations pursuant to procedures outlined by State law and as required by the City of Evans Home Rule Charter (Section 8.5). The revenues, expenditures (or expenses in enterprise funds) and transfers have been previously reviewed by the City Council.

Resolution No. 28-2012 adopts the annual budget.

Ordinance No. 542-12 appropriates the expenditures, expenses and transfers.

We are excited to present you with the 2013 City of Evans Operating and Capital budget along with the five year projections. This budget is the result of several years of significant work on the part of the City Council and staff. While the economic conditions continue to be uncertain, we continue to use our proven financial management tools and look for opportunities for improvement. The transition to self—collection of sales taxes in 2011, has proven to be positive and has given us the ability to predict our sales tax revenues in a more timely and accurate manner. The 2013 budget is built conservatively with careful analysis based on the results of 2011 and projections for 2012.

The reductions of 2010 which cut about \$1 million of fixed costs from the 2011 General Fund budget stand to be a prudent and necessary decision to begin the process of dealing with the structural gap which had developed over the past 10 years. 2013 is targeted as a year to analyze current service levels and plan for adjustments as we move into the future.

With the voter approved creation of the Evans Fire Protection District (District) in 2011, the final step of transferring 10 of the City's property tax mills to the District will happen in 2013. You will notice several footnotes on the following pages specifically related to projected revenue decreases that point to this occurrence. All assets and employees of the Fire operations will also transfer to the District in 2013.

From a process perspective, we continue to focus on including staff in the budget process (and associated Long Range Plans), creating a higher level of awareness and accountability.

Process teams were developed for revenues, payroll, supplies and services, asset management, and capital programs. These teams worked with the departments to review and prepare the budgets, providing for an independent review. The goal for each of these teams is to train the team for next year and each year increase the level of analysis that goes along with developing the financial plans. An additional benefit is the increased number of city employees who have a significantly greater understanding of the City finances and operations. The increased knowledge usually leads to more accurate information in the community.

The Finance Committee provides oversight and recommendations to the budget process. Ultimately, it is the City Council that approves the annual budget based on the recommendations of the City Manager and input from citizens.

The 2013 General Fund budgeting started five years ago, a benefit to our long term perspective on managing the finances of the City. Although the City made significant reductions to long term operating expenses in 2010 in response to the recession and structural gap, the City the City's management team has been able to maintain a balanced operating budget. As we moved into the official 2013 budgeting season, the 2012 sales tax revenues are showing strong growth over prior years, due in part to the policy decision to move to self-collection (in 2011) and improved economic conditions. The challenge going forward, still remains to be determining at what level the sales taxes are going to stabilize. In order to mitigate the risk of funding long term fixed costs based on one-time increases in the budget, we have taken an approach in this year's budget which allows us to budget for an increase in sales tax revenue (which our models support) but programs in a portion of that related only to one-time costs. This method allows us to remain ultra-conservative in increasing our long term fixed costs, but plan to complete some critical projects as they year begins.

The City Council's goal for 2013 is to retire the remaining general obligation debt in December, three years early. This will result in the City being debt free related to the general government and a savings of over \$100,000 in interest to the citizens.

The 2009 restructuring of the financial management of the Water Fund has proven to be an effective tool for managing enterprise funds. The attached budget includes higher revenues based on increasing the base rate from \$14.50 per month to \$16.50 per month. The 2009 study indicated the rate required to generate appropriate major maintenance revenue should be around \$17.00 per month, the increase in 2013 is intended to implement the correct rate over several years. 2013 will be a year to reevaluate the results of the increases. Additionally, funding two large operational water storage projects (Windy Gap and NISP-Glade Reservoir) face the City as we move into the future.

The restructuring of the Waste Water fund took place in late 2011 and was implemented in 2012. Similar to the issues identified in the Water Fund, the Waste Water fund is not recovering its costs on the operational side and does not have a mechanism in place to fund system maintenance. These issues will start to be addressed through potential modifications to the rate structure starting in 2013.

The final City enterprise fund, Storm Drainage, also requires any in depth analysis to assure that these operations are self-sustaining as required by law.

The attached budget book includes information intended to answer the most frequently asked questions. To accomplish the purpose of being useful on an everyday basis, the budget book does not attempt to answer every conceivable question (ultimately leading to a document that is too cumbersome). The budget document will be updated following City Council approval and made available online as well as in print format.

Although the economic future is uncertain, the City has the systems and resources in place to manage these challenges. This is an accomplishment that puts Evans in an elite group of cities and towns. We are definitely among the municipal leaders in Colorado with regard to how we financially plan and manage our budgets.

In summary, the budget is flexible and a living document with constant monitoring and management. With adoption of the 2013 budget, the staff will move to closeout 2012 and identify fund balances that can be used to fund one time projects. By constantly updating and discussing the budget we can eliminate the antiquated once a year budget model and move to a more fluid financial management system. Thank you for your continued leadership, trust and support.

Mayor Achziger expressed his thanks and appreciation for all the hard work that goes into this process.

Council member Burmont echoed Mayor Achziger's sentiments. He did have two questions. He asked since we are paying off the general obligation debt soon what will happen to the fund balance and can it be transferred to the general fund. Finance Director Gonifas replied that the money is in a reserve account right now. We can only use it when the debt is paid off. We anticipate using it to help retire the debt early. The money has not been appropriated yet because the auditors will see that as a zero fund balance. We will appropriate it in the 1st Quarter Budget Revision. So revenue that goes into the fund in 2014 will then be placed in the general fund.

Council member Burmont asked about page 22 of the budget book and the accumulators of major maintenance and water conservation money that total \$3 million plus. He asked if we have actually paid out the expenses. Finance Director Gonifas replied that we have not. We are anticipated the revenue and expense of the major maintenance. Burmont asked for where the money is going for the expenses. Gonifas replied that the money is going to supplies, services, AMP, and capital replacement related to those revenues. We are not accumulating any money other than the \$130,000. This includes the radio replacements right now.

Mayor Pro Morris expressed his thanks to everyone for their work and conservative approach. He is happy to see the increase for staff and being debt free. And is happy that we are looking NISP and Windy Gap issues that will help with our future.

Mayor Achziger echoed his thanks as well. He stated this is a testament to staff and the whole team on the hard work for the last 6 years to make these plans. Waste water is the last fee.

Mayor Achziger asked if there was anyone in opposition of this item.

There were none.

Mayor Achziger asked if there was anyone in favor who wished to speak on this item. There were none.

Mayor Achziger closed the public hearing.

Council member Schaffer moved to, seconded by Council member Burmont to adopt Resolution No. 28-2012 and approve Ordinance No. 542-12 on first reading. Motion carried with all in favor of.

D. Preliminary 2012 Budget Revision—Community and Economic Development Departmental Assessment

Jessica Gonifas, Finance Director reported the following:

The 2012 one-time list included an item related to the departmental assessment for the Economic and Community Development Department. The need to conduct departmental assessments was identified through the Strategic Operational Planning (Strat Op) process in order to address the core issue of “organizational development”. The need to conduct the departmental assessments was also identified in the budgeting process as we move into the 2014 financial planning process.

The budget estimate is \$30,000 in order to conduct the assessment for both departments.

The General Fund revenue source for this appropriation is excess 2012 State oil and gas severance revenue. This preliminary budget revision will not impact the budgeted ending fund balance as this revenue source has not been previously budgeted.

Council member Burmont asked what the process is for the obtaining the assessment consultants.

Finance Director Gonifas replied that we use the request for proposal or quote process in the financial policies.

Mayor Achziger stated that the decision to fund this came from the last work session discussion about the one time funding list. This was Council’s direction to staff to proceed with this assessment.

City Manager Hogan stated that part of handling the after effects of the RIF is to have these assessments to see where we are now with our services and delivery.

Mayor Pro Tem Morris moved, seconded by Council member Rudy to approve the preliminary budget revision in the amount of \$30,000 from the General Fund revenue related to the 2012 State oil and gas severance revenue. Motion passed with all voting in favor thereof.

E. Resolution No. 26-2012—Adoption of Cooperation Agreement with the Evans Redevelopment Agency

Sheryl Trent, Economic Development Director, reported the following:

The City of Evans formed an Urban Renewal Authority (known as the Evans Redevelopment Agency) in 2009 for the purpose of redevelopment. The ERA is a separate entity from the City of Evans and as such will have to fund personnel and other costs in a separate budget. At this time, with no revenues forthcoming until further action is taken by the ERA, a cooperation agreement is necessary to conduct business.

This agreement is similar to the one between the City of Evans and the Fire District, and allows for the City to advance monies to the ERA for necessary costs until such time as the ERA can repay the City (this is a debt with no interest incurred by the ERA). The agreement lists personnel and anticipated maximum time allocated to the ERA, which can change from year to year. The agreement will be signed by both council and ERA

The agreement calls for a maximum contribution from the City of Evans to the Evans Redevelopment Agency of \$100,000 for administrative and professional support, consultant support and services. This would be for personnel only, plus the overhead needed by the City to maintain those personnel such as benefits, office supplies, equipment, and other tools. This amount would be funded from sales and property tax and might be advanced by the City and then repaid by the Agency when additional sales tax and property tax is realized in any Urban Renewal Area.

Mayor Pro Tem Morris asked if section 2 of the agreement on collection and remittance of sales tax will that set funding for the ERA.

Economic Development Director Trent replied that only the agency itself can handle the tools for funding. The cooperation agreement just points out the obligation based on state statute. Council Member Burmont asked if by signing the document the Council is committing to loan the \$100,000 to the Agency.

Economic Director Trent replied that the agency will not request the money unless they have expended the goals of the agency. Council member Burmont asked if we are just writing a check for the \$100,000. The money has not been appropriated. And will have a budget amendment to consider if needed.

Council Member Burmont strongly suggests a separate line item for the advanced payment. Finance Director Gonifas stated that there will be separate accounting.

It was pointed out that the address and clerk name was incorrect.

Mayor Pro Tem Morris made a motion, seconded by Council Member Brown to adopt Resolution No. 26-2012 and the cooperation agreement as amended with address change and clerk name changed.

REPORTS:

The City Manager Aden Hogan reported the following:

The IT assessment is in full swing and we did impose on Morris to interview with consultant. For the rest of Council the one on ones meeting with Aden later this month will have questions that will feed back to Zig. If any other Council member wishes to participate they may and participate with Zig directly.

City Attorney Russ Anson reported the following:

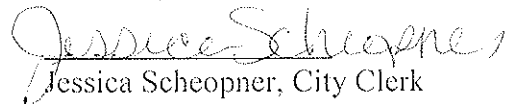
He gave an update on Evans Liquor show cause hearing. There was not enough time to finish the hearing. We were granted a motion for continuance and must list all the past violations in order to have them submitted as evidence.

AUDIENCE PARTICIPATION:

There was no audience participation.

ADJOURNMENT:

Mayor Achziger adjourned the meeting at 9:06 pm


Jessica Scheopner, City Clerk